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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

AUG 29 2006

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
FARMERS WATER COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-01654A-05-0845

DECISION NO. 68920OPINION AND ORDER

DATE OF HEARING:

July 7, 2006

PLACE OF HEARING:

Tucson, Arizona

ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

APPEARANCES:

Mr. Warren Culbertson, CEO Farmers
Water Company; and

Ms. Linda Fisher, Staff Attorney, Legal
Division, on behalf of the Utilities
Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On November 18, 2005, Farmers Water Co. ("Farmers" or "Company") filed with the
Commission an Application to Extend its Certificate of Convenience and Necessity ("CC&N" or
"Certificate") in Pima County.

2. By its application, Farmers is seeking Commission authority to extend its service
territory to include a new subdivision, a county park and a church.

3. On December 16, 2005, Commission Utilities Division Staff ("Staff") notified
Farmers that the application was insufficient pursuant to the requirements of the Arizona

1 Administrative Code.

2 4. On March 30, 2006, the Company provided additional documentation in support of its
3 application.

4 5. On April 27, 2006, Staff filed a Sufficiency Letter indicating the application had met
5 the sufficiency requirements of A.A.C. R14-2-402(C).

6 6. By Procedural Order dated May 9, 2006, the matter was set for hearing in Tucson,
7 Arizona, and procedural guidelines and deadlines were established.

8 7. On June 2, 2006, Farmers mailed notice of the hearing as directed by the May 9, 2006
9 Procedural Order.

10 8. On June 15, 2006, Staff filed its Staff Report that recommends approval of the
11 application.

12 9. By Letter dated June 27, 2006, and docketed on June 29, 2006, Farmers filed comments
13 to the Staff Report and requested that Staff's recommendation that it file a rate case be extended until
14 2008, with a 2007 test year, because the Company expected four subdivisions to come on line in
15 2006, which would make 2007 a better representative year for rate making purposes.¹

16 10. The hearing convened as scheduled, before a duly authorized Administrative Law
17 Judge, on July 7, 2006, at the Commission's offices in Tucson, Arizona.

18 11. Farmers currently provides water utility service to approximately 1,788 customers in
19 an area near Green Valley in Pima County, Arizona. Farmers has three water systems: the Sahuarita,
20 Continental and Green Valley systems.

21 12. Farmers is requesting to extend its CC&N to add approximately 1/8 square mile
22 contiguous to its Sahuarita System. By the extension, Farmers would serve a new Estes subdivision
23 comprising 72 one acre lots, provide fire flow to a Baptist Church, and provide potable water to a
24 Pima County Park. The legal description of the extension area is attached hereto as Exhibit A, and
25 incorporated herein by reference.

26 13. If this growth does occur in the certificated area, hook-up fees may be appropriate to
27

28 ¹ At the hearing, Staff revised its recommendation to call for a 2007 test year in the Company's next rate case.

1 mitigate the cost of plant needed to serve the area.

2 14. The Baptist Church and the Pima County Park have their own wells, however the
3 church does not have adequate flow for fire protection and desires to obtain sufficient flow from
4 Farmers to meet Pima County Code. Sahuarita Park currently uses its own well for irrigation
5 purposes only and desires to obtain drinking water from Farmers.

6 15. The Sahuarita System has two wells producing 750 gallons per minute ("GPM"), two
7 storage tanks (total capacity of 35,000 gallons) no fire hydrants and a distribution system serving 89
8 connections. Staff estimates that based on existing well production and storage capacities, the
9 Sahuarita System can serve approximately 250 service connections.

10 16. The Company plans to finance the facilities needed to serve the extension area through
11 advances in aid of construction in the form of a main extension agreement. The projected cost of the
12 plant needed to serve the area is expected to be \$484,122.

13 17. Staff concludes that the existing system and the proposed facilities will have adequate
14 well and storage capacities to serve existing customers and proposed CC&N extension area.

15 18. Staff further concludes that the proposed plant facilities for the requested area and
16 their projected cost estimates are reasonable. Staff made no "used and useful" determination of the
17 proposed plant facilities as part of its review in this case, and states that no particular treatment
18 should be inferred for rate making or rate base purposes.

19 19. The Arizona Department of Environmental Quality ("ADEQ") has determined the
20 Company's existing systems are currently delivering water that meets the water quality standards
21 required by Arizona Administrative Code, Title 18, Chapter 4.

22 20. The Company has not yet received the ADEQ Certificate of Approval to Construct
23 ("ATC") for construction of the facilities to the requested area.

24 21. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
25 maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10
26 µg/l. The date for compliance with the new MCL is January 23, 2006. The most recent lab analysis
27 by the Company indicates that the arsenic level in its source supply wells ranges from 2.8 µg/l to 7.7
28 µg/l. Based on these arsenic concentrations, the Company is in compliance with the new arsenic

1 MCL.

2 22. Farmers is within the Tucson Active Management Area. Staff states that the Company
3 is in compliance with its reporting and conservation requirements.

4 23. The Company is in compliance with Commission Orders, rules and regulations.

5 24. A Curtailment Plan Tariff is an effective tool to allow a water company to manage its
6 resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable
7 events. Farmers has a Curtailment Plan Tariff that was approved in Decision No. 67002 (May 24,
8 2004).

9 25. The Company is current with its property and sales taxes.

10 26. Farmers has proposed to provide water utility service to the extension area under its
11 authorized rates and charges. Staff concurs.

12 27. According to its annual reports filed with the Commission, Farmers suffered net losses
13 in 2003, 2004 and 2005.

14 28. Every applicant for a CC&N and/or CC&N Extension is required to submit to the
15 Commission evidence showing that the applicant has received the required consent, franchise or
16 permit from the proper authority. If the applicant operates in an unincorporated area, the company
17 has to obtain a franchise from the county. Farmers filed its Pima County franchise with its
18 application.

19 29. Staff further recommends:

20 (a) Farmers file with Docket Control as a compliance item in this docket, a copy of
21 the ADEQ ATC for facilities needed to serve the requested areas within one year of the effective
22 date of an order in this proceeding;

23 (b) Farmers file with Docket Control, as a compliance item in this docket a copy of
24 the developer's Certificate of Assured Water Supply for the requested area, where applicable or when
25 required by statute, within one year of the effective date of an Order in this proceeding;

26 (c) Farmers file a rate case by June 30, 2008, using a 2007 test year; and

27 (d) That the Commission Decision granting the requested CC&N extension be
28 considered null and void, after due process, should the Company fail to meet these conditions within

1 the time specified.

2 30. Because an allowance for the property tax expense of Farmer's is included in the
3 Company's rates and will be collected from its customers, the Commission seeks assurances from the
4 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing
5 authority. It has come to the Commission's attention that a number of water companies have been
6 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,
7 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure Farmers
8 should annually file, as part of its annual report, an affidavit with the Utilities Division attesting that
9 the company is current in paying its property taxes in Arizona.

10 **CONCLUSIONS OF LAW**

11 1. Farmers is a public service corporation within the meaning of Article XV of the
12 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

13 2. The Commission has jurisdiction over Farmers and the subject matter of the
14 application.

15 3. Notice of the application was provided in accordance with law.

16 4. There is a public need and necessity for water service in the proposed extension area
17 set forth in Exhibit A.

18 5. Farmers is a fit and proper entity to receive a CC&N to provide water service in the
19 proposed extension area.

20 6. Staff's recommendations contained in Findings of Fact No. 28 are reasonable and
21 should be adopted.

22 **ORDER**

23 IT IS THEREFORE ORDERED that the application of Farmers Water Company for an
24 extension of its Certificate of Convenience and Necessity to provide water service in Pima County as
25 described in Exhibit A hereto, is approved.

26 IT IS FURTHER ORDERED that Farmers Water Company shall charge its existing rates and
27 charges within the approved extension area.

28 IT IS FURTHER ORDERED that Farmers Water Company shall file with Docket Control as

1 a compliance item in this docket, a copy of the ADEQ Approval to Construct the facilities needed to
2 serve the requested extension area within 365 days of the effective date of this Order.

3 IT IS FURTHER ORDERED that Farmers Water Company file with Docket Control, as a
4 compliance item in this Docket a copy of the developer's Certificate of Assured water Supply for the
5 requested area, where applicable or when required by statute, within 365 days of the effective date of
6 this Order.

7 IT IS FURTHER ORDERED Farmers Water Company file a rate case by June 30, 2008,
8 using a 2007 test year.

9 IT IS FURTHER ORDERED that this Decision granting the requested CC&N extension be
10 considered null and void, after due process, should Farmers Water Company fail to meet the above
11 conditions within the times specified.

12 IT IS FURTHER ORDERED that Farmers Water Company shall annually file as part of its
13 annual report, an affidavit with the Utilities Division attesting that the Company is current in paying
14 its property taxes in Arizona.

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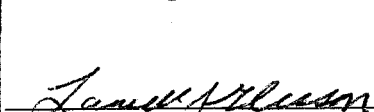
1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Order, Farmers
 2 Water Company shall file with Docket Control a hook-up fee tariff designed to mitigate the projected
 3 \$484,122 cost of new plant.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.


5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6 
 7 CHAIRMAN

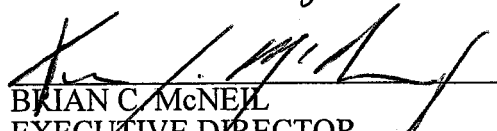

 COMMISSIONER

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 COMMISSIONER


 COMMISSIONER

11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 12 Director of the Arizona Corporation Commission, have
 13 hereunto set my hand and caused the official seal of the
 14 Commission to be affixed at the Capitol, in the City of Phoenix,
 15 this 29th day of August, 2006.

16 
 BRIAN C. McNEIL
 EXECUTIVE DIRECTOR

17 DISSENT _____

18
 19 DISSENT _____

1 6SERVICE LIST FOR:

FARMERS WATER COMPANY

2 DOCKET NO.:

W-01654A-05-0845

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4 P.O. Box 7
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7 Attorneys for Applicant

8 Mr. Christopher Kempley, Chief Counsel
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11 Mr. Ernest Johnson, Director
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ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

FARMERS WATER CO.
DOCKET NO. W01654A-05-0845

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AMMENDMENT TO APPLICATION FOR AN EXTENSION OF TIME P 12: 42
Dated November 17, 2005

**AZ CORP COMMISSION
 DOCUMENT CONTROL**

ATTACHMENT B 1

Legal Description

The E ½ of the E ½ of Section 8, T17S, R14E, Gila and Salt River Meridian, Pima County, Arizona;
EXCEPT THEREFROM the property, described in the Deed to Arizona Electric Cooperative, Inc.
 recorded in Docket 11015, p 1783, described as follows:

Beginning at the Section corner common to Sections 4, 5, 8 and 9, T17S, R14E, Gila and Salt River and
 Meridian;

Thence S 00° 06' 39" W, 1420.26 ft along the Section line common to Sections 8 and 9;

Thence N 44° 44' 27" W, 1585.88 ft along the Northeasterly boundry of Sahuarita District Park;

Thence S 45° 22' 31" W, 295.83 ft along the Northwesterly boundary of Sahuarita District Park to the
 intersection with the E 1/16 line in Section 8;

Thence N 00° 06' 21" E, 499.28 ft along said 1/16 line to the E 1/16 corner common to Section 5 and 8,
 T17S, R14E;

Thence N 89° 53' 56" E, 1328.69 ft, along the Section line to the **POINT OF BEGINNING**.

RECEIVED

JAN 12 2006

**AZ Corporation Commissio.
 Director of Utilities**

EXHIBIT A

DECISION NO. 68920